

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JAMES OWENS, et al.,	:	
	:	
Plaintiffs,	:	
-against-	:	
	:	22-CV-1949 (VEC)
	:	
TALIBAN a/k/a ISLAMIC EMIRATE OF	:	<u>ORDER</u>
AFGHANISTAN,	:	
	:	
Defendants.	:	
-----X		

VALERIE CAPRONI, United States District Judge:

WHEREAS on February 11, 2022, President Joseph R. Biden, via Executive Order, froze assets held in the name of Da Afghanistan Bank (“DAB”) at the Federal Reserve Bank of New York (the “N.Y. Fed”), *see* Executive Order, Dkt. 6-1;

WHEREAS on March 8, 2022, surviving victims, estates of victims who did not survive, and family members of the victims of the 1998 terrorist attacks on various U.S. embassies (“Plaintiffs”) sued the Taliban for its alleged role in the attacks, *see* Compl., Dkt. 1;

WHEREAS on March 8, 2022, Plaintiffs filed an *ex parte* emergency motion seeking pre-judgment attachment of DAB’s assets at the N.Y. Fed to preserve their chance of collecting on a future judgment, *see* Emergency Mot., Dkt. 4;

WHEREAS on March 21, 2022, the Court granted Plaintiffs’ motion, *see* Orders, Dkts. 33, 38;

WHEREAS on May 2, 2022, Plaintiffs moved to confirm the order of attachment, *see* Confirmation Mot., Dkt. 47;

WHEREAS on June 6, 2022, the N.Y. Fed filed a response to Plaintiffs’ motion to offer its views concerning the extent to which immunity afforded to foreign central bank property

under the Foreign Sovereign Immunities Act, 28 U.S.C. § 1602 *et seq* (the “FSIA”) applies in this case, *see* N.Y. Fed Response, Dkt. 61;

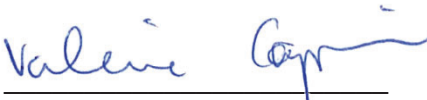
WHEREAS the United States has expressed its view in another case that “DAB is an agency or instrumentality of the State of Afghanistan under the FSIA’s definition and thus is to be treated as a ‘foreign state’ for purposes of the FSIA,” Gov’t Statement of Interest, *In Re: Terrorist Attacks on September 11, 2001*, No. 03-MD-01570, Dkt. 7661, at 21 (S.D.N.Y. Feb. 11, 2022); and

WHEREAS district courts “have broad discretion to permit or deny the appearance of amici curiae in a given case,” *United States v. Yaroshenko*, 86 F. Supp. 3d 289, 290 (S.D.N.Y. 2015) (internal quotation marks and citation omitted); *see also* 28 U.S.C. § 517;

IT IS HEREBY ORDERED that not later than **Friday, February 24, 2023**, the United States may, if it so wishes, submit a statement of interest setting forth its position on the extent to which the FSIA precludes confirmation of the Court’s attachment order. The Clerk of Court is respectfully directed to serve this Order on the United States Attorney for the Southern District of New York.

**SO ORDERED.**

**Date: February 3, 2023**  
**New York, New York**

  
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**VALERIE CAPRONI**  
**United States District Judge**